

Buffets, Inc

Approver: HQAPP

New Ordering document for Buffets using pricing off the November 2000 price list.

1. Sell HR at 70% off November 2000 price list (price hold expired May 2002)
2. 2 year price hold off November 2000 price list at 70% for all HR programs
3. 2 year price hold off November 2000 price list at 50% off all other programs. (original price hold expires November 2002)
4. 5 years capped at 5% for support for this order.
5. The following language changes which were part of the original order:
 - a. standard assignment language
 - b. segmentation language
 - c. waiving of CD pack fees
 - d. Back Up Copies. In the "Ownership and Restrictions" Section of the Agreement, replace the second sentence with the following: "You may make a sufficient number of copies of each program for your licensed use and a reasonable number of backup copies of each program for backup purposes when you system is inoperative."
 - e. Audit. Add the following to the 4th paragraph of the "Ownership and Restrictions" Section of the Agreement: "Any such audit shall be conducted during regular business hours at your facilities and shall not unreasonably interfere with your business activities. You shall have the right to limit our access to your employees and facilities for purposes of conducting the audit, provided you provide us with an on-site conference room for purposes of conducting the audit"
 - f. Indemnification. In the "Indemnification" Section of the Agreement, delete the text of the first bullet point and replace with "notify us promptly in writing upon knowledge of such claim;"
 - g. End of License Agreement. In the "End of License Agreement" Section of the Agreement, replace the first sentence with the following: "If you materially breach the terms of this license agreement and fail to correct the breach within 30 day after we notify you, we may end this license agreement and your use of programs and technical support"
 - h. Limitation of Liability. Replace the beginning of the second sentence of the Limitation of Liability section of the Agreement with "EXCEPT FOR INFRINGEMENT INDEMNITY CLAIMS AS STATED ABOVE, OUR MAXIMUM LIABILITY FOR ANY DAMAGES WHETHER IN CONTRACT OR TORT WILL NOT EXCEED THE LICENSE FEES AND SUPPORT FEES WHICH YOU PAID US FOR THIS ORDER"

Deal Summary	
Product Mix:	Human Resources
License Discount	70% on HR, Extension of Existing Contract Price Hold on Price Book at 50%
Support Discount	70%
Support Options/Holds	5% Technical Support Cap extended for 5 years
Price Holds	70% for 2yrs on HR Suite (HR, SSHR, Payroll, OTL, OAB, iRecruitment, Training Administration 50% Price Hold on Price Book (9iAS at Store)-Extension of existing contract price hold of 18 Months (Current Price Hold Expires Nov'02) - Customer staying with current licensing metrics.
List License	\$1,680,000.00
List Support	\$369,600.00
Net License	\$504,000.00
Net Support	\$110,880.00
Net Price	\$614,880.00
Price List Used	November 2000

Justification:

Buffets Inc. experienced several delays in the original implementation of Oracle 11i Financials Licenses which they purchased in November 2000. This delayed go-live caused a delay in the original planned rollout time frame for Oracle HR and the required licensing which was pre-negotiated at a 70% discount in the Nov'00 license agreement. Given these delays, Buffets was unable to execute the ordering document for these HR licenses within the original specified time frame (6months – May '01) The discounts at that time, were partly justified on the high percentage of part-time employees at Buffets Inc - of the 28,000 employees Buffets only has approx. 5,000 full time equivalents. This approval requests a re-instatement/extension of the originally negotiated terms & discounting schedule to win the HR selection at Buffets.

Finally, as an effect of the delays in the Financials project, Peoplesoft & Lawson have been given serious re-consideration. In order to meet this competitive threat from Peoplesoft we are asking for that the 70% discount and the associated discount holds & support cap be approved.

Recommendation: *(leave blank for HQAPP to fill out)*

Submitted By: Steve Dobbs

R: *(leave blank for HQAPP to fill out)*

C:

L:

A:

BP: